



THE INTERIM

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THE INTERIM

Montana Legislative Services Division
Room 110, State Capitol
PO Box 201706
Helena, MT 59620-1706
Phone: (406) 444-3064
Fax: (406) 444-3036

THE INTERIM is a monthly newsletter that reports on the interim activities of legislative committees, including the Legislative Council, the Environmental Quality Council, the Legislative Finance Committee, the Legislative Audit Committee, and interim legislative committees and subcommittees staffed by the Legislative Services Division. Information about the committees, including meeting schedules, agendas, and reports, is found at <http://www.leg.state.mt.us>. Follow the "Committees" link or the "Interims" link to the relevant committee. The newsletter is posted on the legislative branch website on the first of each month (follow the "Publications" link).

LEGISLATIVE AUDIT COMMITTEE

The Legislative Audit Committee met March 6 in Helena. Legislative Audit Division staff presented the following reports:

Financial Audit

State of Montana 05-01...The audit report contains the Basic Financial Statements of the state of Montana for fiscal year 2004-05, which were prepared by the Department of Administration's Administrative Financial Services Division, and the Schedule of Expenditures of Federal Awards for the fiscal year ending June 30, 2005, prepared by the Governor's Office of Budget and Program Planning. This report contains the Legislative Audit Division's Independent Auditor's Report on the Basic Financial Statements, which includes LAD's opinion on the Schedule of Expenditures of Federal Awards and the LAD's report on compliance and internal control. This report does not contain any recommendations to the Department of Administration or the governor's budget office.

Federal Single Audit

Montana Single Audit 05-02...The federal single audit is prepared in accordance with the federal Single Audit Act Amendments of 1996 and OMB Circular A-133. It contains the auditor's reports on Montana's basic financial statements and schedules of expenditures of federal awards for the fiscal years ended June 30, 2004 and 2005, as well as reports on internal controls and compliance, the schedule of findings and questioned costs, the corrective action plan, and the summary schedule of prior audit findings.

Performance Audits

Small Business Development Centers 05P-04...The Small Business Development Center program provides business technical services to small businesses throughout Montana. The performance audit examined the efficiency and effectiveness of program services. Audit findings show program services are beneficial for participating businesses, but the program could make improvements in some areas. Audit recommendations dealt with compliance with federal regulations, program services for veterans and American Indians, resource allocation in the SBDC network, and performance measurement procedures.

Juvenile Delinquency Intervention Program 04P-13...This performance audit examined the Department of Corrections implementation of the Juvenile Delinquency Intervention program. According to state law, the program is intended to be a performance-based program, requiring evaluation of program activities and outcomes. However, the department has not fully implemented a performance-based program. The audit report recommended improving administrative rules to include performance-based standards and operations, improving allocation of program funds to youth courts based on better indicators of program needs, and improving program oversight and monitoring. The report also recommended updating the Youth Court Act to reflect changes to the structure of the judicial branch.

Local Government Reimbursement For Joint Construction Costs 05P-05...The Montana Department of Transportation frequently participates in construction projects with local governments. Under these arrangements, MDT generally plans, funds, and

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manages the program. MDT then seeks reimbursement for the local government's share of construction costs. Most local governments provide MDT with reimbursement in a timely manner. This audit provides recommendations for MDT to improve contract language associated with these joint construction contracts; require local governments to pre-fund a portion of their anticipated joint construction costs; and seek statutory changes to allow MDT to levy penalties against local governments that fail to provide timely reimbursement for construction costs.

Compliance with Montana's Mandatory Motor Vehicle Liability Insurance Law 05P-06... This performance audit survey examined compliance with Montana's mandatory motor vehicle liability insurance laws. Results of the survey showed that between 9 and 15 percent of registered motor vehicles in Montana do not have liability insurance coverage. Primary reasons for noncompliance are relatively weak controls. The chances of detecting noncompliance are limited, because the state relies upon law enforcement to identify violators during infrequent traffic stops. The penalties for noncompliance are often less costly than the cost of purchasing insurance. Finally, offenders can easily circumvent corrective controls, such as vehicle registration suspensions. The state could implement better controls to improve compliance with the law, such as implementing an automated liability insurance reporting or verification system and increasing penalties. However, the potential reduction in noncompliance or any estimated cost-benefits cannot be readily determined. Since implementing improved controls is a legislative policy decision, this report only provides information for legislative consideration and does not include audit recommendations.

State Use of Cellular Devices 05S-30... The state of Montana began using cellular devices in 1991 with a total of six cell phones. Today, state agencies have almost 3,800 cellular devices with an associated cost of approximately \$1.2 million per year. The performance audit found that the state has a limited policy for governing cellular device use. Most agencies have not established criteria for selecting a monthly usage plan or type of device (cell phone or Blackberry). Consequently, state cellular device users are not always on the most efficient plans available. The audit also found that cellular device statement details were not reviewed on a regular basis. As a result, some charges were improperly billed to the state. For example, the state of Montana is exempt from the federal telecommunication excise tax, yet in the past year the state paid approximately \$11,000 in federal excise taxes.

Information System Audit

Lottery Security 06DP-03... The Montana Lottery was created in 1987, and its operations are entirely funded by the sale of lottery tickets. Net profits from tickets sales are transferred into the state general fund. State law requires the Legislative Audit Division to conduct a comprehensive audit of the Montana Lottery security every two years. The Legislative Audit Division, Information Systems audit team,

performed an audit of Montana Lottery security in the areas required by 23-7-411, MCA. The primary objectives of the audit were to evaluate the existence and operation of security controls and to evaluate compliance in the areas specifically outlined in state law. This report contains nine findings and recommendations on the statutory areas of personnel security, contractor security, computer security, data communications security, systems security, and lottery premises and warehouse security.

Next Meeting... The Legislative Audit Committee is scheduled to meet June 20 in Room 172 of the Capitol.

STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

Committee works on principals and guidelines for public retirement plans... The State Administration and Veterans' Affairs Committee met on April 21. The committee is developing principles of sound fiscal and public policy as guidelines for public employee retirement plans. Committee staff summarized various principles and guidelines recommended by the National Conference of State Legislatures, the now-defunct Committee on Public Employee Retirement Systems, and the Government Finance Officers' Association. Stakeholders presented alternative views on sound principles and guidelines. The stakeholders included: Roxanne Minnehan, executive director, Montana Public Employees' Retirement Administration; David Senn, executive director, Montana Teachers' Retirement System; Carroll South, executive director, Montana Board of Investments; Randy Morris, administrator, State Personnel Division; Tom Schneider, Montana Public Employees Association; and Tom Bilodeau, MEA-MFT.

The committee has tentatively adopted a number of principles and guidelines and will use the principles and guidelines to review and act upon public retirement system proposals over the summer. A list of the principles and guidelines adopted by the committee will be posted, when completed, to the committee's web page.

Committee elects new chair... Sen. Joe Tropila was elected presiding officer to succeed Sen. Bill Tash, who resigned from the committee because of health concerns. Rep. Ralph Heinert was elected vice presiding officer to succeed Tropila. The Senate Committee on Committees appointed Sen. Kelly Gebhardt to replace Tash.

May and June meetings scheduled... The committee is scheduled to meet Friday, May 12, in Room 172 of the Capitol. The agenda will likely include: committee discussion of the HJR 42 study of the Montana public employee retirement systems; committee review and action on bill drafts considered by the committee at its November, January, and March meetings. These drafts include:

- a proposal to establish statutory minimum

qualifications for the position of executive director of the MPERA (LC997);

- a proposal to delete language qualifying (limiting) the right of an individual to bring a civil action to enforce the requirements of the public participation in government statutes (LC10002); and
- a proposal to allow a district court to award costs and reasonable attorney fees to a plaintiff who prevails in a civil action brought to enforce the plaintiffs' rights under the public participation in government statutes (LC10003).

The committee is scheduled to meet June 22 and 23 to review state agency proposed legislation and proposals to revise any of the public retirement systems. Anyone who wants to submit a proposal to revise any of the public retirement systems should complete the form "Proposal for Retirement Plan Legislation" under the Retirement Related Proposals heading on the committee's webpage.

The tentative agendas for the May 12 and June 22-23 meetings will be posted to the committee's webpage as soon as they are available and will be updated as the meeting dates approach. Material to be presented by committee staff will also be posted to the webpage as soon as it is available.

For more information about the committee, contact Dave Bohyer, committee staff, at (406) 444-3064 or dbohyer@mt.gov.

ENVIRONMENTAL QUALITY COUNCIL

EQC and subcommittees to meet in May...The Environmental Quality Council and its three subcommittees meet May 18-19 in Helena at the Capitol to discuss a wide range of issues. The subcommittees meet May 18.

The Agency Oversight subcommittee meets in Room 172. Agenda items include:

- preparation of the HJR 34 draft report in anticipation of the 30-day public comment period in June;
- administrative rule review updates; and
- an informational hearing on Wyoming's request that the Environmental Protection Agency mediate concerns that state has about a new Montana water quality rule related to coal bed methane water discharges.

For more information, contact Todd Everts at (406) 444-3747 or teverts@mt.gov.

The House Bill 790 subcommittee on split estates and coal bed methane meets in Room 102. Members will continue to debate draft legislation as well as review a draft report and informational brochure.

For more information, contact Joe Kolman at (406) 444-9280 or jkolman@mt.gov.

The Study subcommittee meets at 9 a.m. in Room 137. Members will:

- review draft findings, recommendations and the final report, including potential legislation;
- hear an update on a bill draft from the Surface Water/Ground Water working group; and
- discuss the recent Supreme Court opinion on ground water withdrawals in the Smith River Basin;.

The subcommittee will also review bill drafts prepared for the HJR 10 study of fire-related statutes on fire suppression and mitigation. The HJR 10 work group completed the statute review portion of the study at its April 4 meeting. Over 120 pages of proposed legislation--contained in four or five separate bill drafts--update antiquated language, provide consistent application of terms, clarify state and local government authority for restrictions and closures during periods of high fire danger, expand certain policies (not assessments) beyond forest land, reorganize statutes, and implement a state fire policy. Staff is finishing the drafts and sending them to subcommittee members for their review in advance of the May 18 meeting. Staff and work group members will present the bills and answer questions about the intent of the proposed changes at that time.

For more information, contact Krista Lee Evans at (406) 444-1640 or kevans@mt.gov.

The Environmental Quality Council meets May 19 in Room 102. Agenda items include:

- An update from the Department of Natural Resources and Conservation on water right billing, appeals, and funding. A representative of the Water Court will also make a presentation on funding, staffing and workload. The panel will debate the attorney general's opinion on the water adjudication fee, if it has been completed.
- A panel discussion on water right ownership update process. Panelists include representatives of DNRC, real estate agents, title companies, and the Department of Revenue.
- An update from the Clark Fork River Basin Steering Committee on activities and post adjudication.

More information and meeting agendas are available at: http://leg.state.mt.us/css/lepo/2005_2006/default.asp.

LEGISLATIVE FINANCE COMMITTEE

District Court rules on governor's line item vetoes in HB 2...Sen. John Cobb filed a motion for a declaratory judgment in a Helena District Court asking for a ruling on whether the governor exceeded his constitutional authority in vetoing certain language in HB 2. Cobb argued that the governor does not have the authority to veto language in HB

2 without also vetoing the appropriation to which the language is attached. Cobb also argued that the governor's line item veto of the language invades the Legislature's authority and that the governor's determination of the constitutionality of the language invades the power of the judicial branch.

District Court Judge Thomas Honzel has ruled in favor of Cobb, declaring that the governor can only veto:

- a specific appropriation contained in HB 2;
- a condition that limits the use of an appropriation, but only if the appropriation to which the condition is attached is also vetoed; and
- a rider (i.e., language that isn't attached to a particular appropriation).

The governor filed a counterclaim to the Cobb lawsuit that he had the right to veto the language if the language was unconstitutional, and asked for a summary judgment. The District Court ruled that the governor can't veto the language just on the basis that the governor considers it unconstitutional. The District Court also denied the governor's request for a summary judgment on this claim, stating that the governor's vetoes left questions of the consistency of his actions, and that a hearing needs to be held to determine, on a case by case basis, whether the provisions that were vetoed meet the tests that were set forth. The District Court stated that it will rule on this matter separately, and has scheduled hearings to deal with this matter. So there will be a decision later, basically on whether each item of language vetoed was a valid condition of an appropriation or whether it was unconstitutional.

It is not yet known whether the state will appeal on the veto authority decision of the District Court.

This issue and the impact of the court decision on the state budget and appropriation process includes the clarification of the governor's veto authority in an appropriations bill and ultimately should clarify the role and propriety of language attachments to the general appropriations act. For more information, contact Clayton Schenck at cschenck@mt.gov or at (406) 444-2986.

CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE

SJR 37 Study on Child Protective Services...At the committee's March meeting, the Department of Public Health and Human Services reported on drug use by parents of children in the child protective services system. The department said that 65% of the cases involve drug use by parents and 58% involve use of methamphetamine. Drug use by parents affects the number of children entering and leaving the system. Children whose parents use methamphetamine spend more time in the system and more come in than leave. The department may ask for additional employees to deal with the increasing caseloads.

In a related matter, the Child and Family Services Division reported on a workload study undertaken in response to a legislative audit recommendation. The division is studying its staffing needs on an ongoing basis. The study measures staff time available, services provided to families, and analysis of best practices. The study indicates that the child protective services system is woefully understaffed. The division will conduct another time study in May and make an initial report in July.

DPHHS also reported on foster parent recruitment and retention and on department efforts to improve services, again in response to a legislative audit. DPHHS discussed advances made in training and the development of a consistent statewide program. DPHHS has set up a website for recruiting foster parents, distributing brochures, using finder's fees, providing public service announcements, and a presentation tool kit. It is also working with religious organizations. The committee heard compelling personal stories from a foster and adoptive mother and her adopted child who has overcome an extremely difficult childhood and has found personal success with the support of her adopted family.

The committee conducted a roundtable discussion on the Court Assessment Program. Participants included Kathleen Jenks, Department of Justice Child Protection Unit, Sarah Corbally, deputy county attorney from Cascade County, District Court Judge Jeffrey Sherlock, and Randi Hood, chief public defender. They provided insights about the struggles within the court system and child protective services. Confusing statutes, state and federal timelines at odds with the realities of court resources, parents with addictions, variations in practice and expertise across the state, continuances, new filing rules, and lack of training all contribute to a muddled system. The new public defender system is developing training and standards for representation of parents and children in child abuse and neglect cases.

The committee decided to consider options for rewriting statutes at the next meeting. The committee will also consider proposals to assist grandparents raising grandchildren both within and outside of the child protective services system. It will gather more information on the effects of parents use of methamphetamine on their children and consider possible legislation to protect them. Staff reports on "Montana Child Abuse and Neglect Court Statistics and Case Analysis", "State and National Child Abuse and Neglect Data Comparisons, Definitions, and Burdens of Proof", and "Critical Time Lines in State Law: A Brief Review of Montana Statutes" are available on the committee webpage.

SJR 41 Study on Mental Health Crisis...The Committee heard a presentation on a promising Peer Support Program being developed in Great Falls. It involves training peers to support people in a mental health crisis and to help them develop self-care and recovery plans.

The committee heard updates on dealing with mental health crises around the state. The Yellowstone County Crisis Center is finishing a new building and

completing the hiring of staff. Representatives from Gilder House in Butte talked about developing a new facility. The facility would have emergency detention beds and would provide crisis stabilization and social detox. The organization may develop a secure facility. Golden Triangle in Helena also wants to develop a crisis stabilization facility.

The DPHHS has issued an RFP for mental health crisis proposals and will be awarding up to \$875,000 across the state. Each proposal must have a recommendation from the appropriate regional Service Area Authority. The committee received an update on the status of the three regional SAAs and the development of 28 local advisory councils. The SAAs hold congress meetings and quarterly summits and work closely with DPHHS.

In children's mental health news, an extended benefit package for children with serious emotional disturbances will be available, including group home and therapeutic foster care funding, and more hours for respite. DPHHS may apply for federal waivers in order to provide more services to children in their home communities instead of residential treatment. Kid's Management Authorities are located in Missoula, the Crow Indian Reservation, and Billings. DPHHS will let a contract in May for KMAs in three more communities.

The committee voted to send a letter to DPHHS about conducting a study of the patients at the Montana State Hospital. The purpose of the study would be to determine where people come from and the reasons they are admitted to the hospital. Mental health crises have resulted in overcrowding at the state hospital. The committee wants an inventory of existing mental health programs and an evaluation of program outcomes in order to identify what is needed in the system. The committee also wants to know about the use of community commitments to keep people in crisis in the communities. A staff Power Point presentation on "Considerations for Crisis" is available on the committee website.

In another letter to DPHHS, the committee asked for more information on suicide prevention.

Finally, the committee discussed the insurance parity for severe mental health disorders and the sufficiency of the seven major diagnoses. A staff report on "Parity in Insurance Benefits for Mental Health Services and Substance Abuse" is available on the committee website.

Department updates...Joan Miles, director of DPHHS, reported on the department's budget and on the possibility of requesting a supplemental appropriation of up to \$12 million. Overcrowding at the Montana State Hospital, the Federal Deficit Reduction Act, changes in Medicaid rules on targeted case management, and costs at the Montana Developmental Center all have contributed to a budget shortfall. Changes in federal matching percentages have affected the department's budget. As Montana's per capita income rises, the federal matching percentage falls, requiring more state money to fund programs. In addition, Miles said that changes in billing practices have caused anomalies that are confounding budget predictions.

Community Health Centers... Mary Beth Frideres reported on Community Health Centers in Montana. The centers include federally qualified health centers, urban Indian clinics, community and migrant health centers, and homeless clinics across the state. They provide much of the healthcare safety net in Montana and receive federal grants to provide comprehensive primary and preventative health care. They have a sliding scale fee and serve many patients, 40% of whom are uninsured and 90% of whom are below 200% of the federal poverty level. Funding for additional community health centers or for community health center "look-alikes" may provide the state with additional resources for preventative and primary health care and for serving the uninsured. In particular, additional centers may be needed in the three cities with urban Indian clinics that are slated to lose funding as of Sept. 1 because of federal budget cuts. A copy of Frideres' Power Point presentation is available on the committee webpage.

Administrative rule review... The committee did not renew its objection to the adoption of foster care rules and leaves the path clear for the DPHHS to adopt the rules. The committee voted to send a letter to DPHHS to encourage the department to work with any providers who want to develop crisis stabilization facilities.

Committee meeting in June...The next committee meeting is scheduled for June 8 and 9 in Room 137 of the Capitol. DPHHS will present its legislative proposals for the 2007 legislative session. The committee will discuss preliminary recommendations on the SJR 37 study of child protective services and on the SJR 41 study of mental health crises response. An agenda and meeting materials will be available on the committee's webpage in late May.

For more information about the committee, contact Susan Byorth Fox, committee staff, at (406) 444-3597.

MONTANA LEGISLATIVE LIBRARY

The few, the proud, the librarians...A few years ago, a co-worker of mine gave me a sash with the words "Sweetheart of the Stacks" emblazoned upon it. I wear this sash proudly when the occasion permits, (actually probably more often than occasion would permit), but there is so much more to being a librarian than just "hanging out in the stacks," looking at books all day: there's electronic research, database searching, webpage construction, wikis, blogs, listservs, and a multitude of other areas that a good librarian should be well-versed in. But what else do we librarians know how to do?

Well, throw a party, of course! This year, the Montana Library Association, a group of over 600 librarians of all types from around the state, celebrates its 100th birthday with a big Centennial Celebration in Missoula May 3-6. I have been involved with MLA for a number of years, serving on the executive board, and chairing the MLA

Marketing & PR Committee for the last four years. Yes, that's right, even libraries—the coolest places in the world—need to be marketed. Here, in the Montana Legislative Library, I work very hard to remind legislators of the services and assistance available to them at this library and at other libraries in Montana.

Montana legislators to receive award...At each MLA Annual Conference, the MLA Intellectual Freedom Committee presents the Pat Williams Intellectual Freedom Award to an individual or group who has made significant contributions during the past year to the enhancement of First Amendment rights. Recipients have demonstrated a clear understanding of the principles, nature and responsibilities, and implications of the First Amendment.

This year the award is being given jointly to state Sens. Jim Elliott (D-Trout Creek) and Jim Shockley (R-Victor) and to Gov. Brian Schweitzer for their stand against the Patriot Act. During the 2005 legislative session, Elliott and Shockley introduced a resolution (SJR 19) that among other things, expressed opposition to the Patriot Act, particularly those provisions that violate the rights and liberties guaranteed under the Montana Constitution or the U.S. Constitution. Elliott and Shockley were instrumental in getting the resolution passed by the Legislature. Resolutions do not require the signature of the governor, but Schweitzer added the weight of his office to the resolution by signing it. All three men took Montanans' concerns about civil liberties and the Patriot Act to the Montana congressional delegation, and all have remained vocal about the act and its renewal. All three recipients will be attending the awards ceremony at the MLA conference (Holiday Inn Parkside, Friday, May 5, 11:30 a.m.). Pat Williams will present the award.

New media award to be given...I am also delighted to tell you about another award that will be given at the MLA conference, as I was a part of the group that put the campaign together. This is MLA's Media Award, conferred to honor a broadcast production or a published work that best underscores the value of libraries to the community and society. This year's Media Award will be presented to the state and national promotional campaign, "What's Your Story? Find It At the Library." Designed as a multi-year project to help libraries better market their collections and services, the campaign makes use of TV and radio PSAs, websites, posters, and other print promotional materials. In the first year, senior citizens were the focus of the campaign, with materials reflecting their "story" and the information needs of seniors, and how those needs can be met at the library. The campaign is a product of the cooperation of many partners: a statewide marketing committee; Sara Groves, Montana State Library's marketing coordinator; the Q Group; and, as funding sources, the Montana Library Association, Mountain West Bank, AARP, the Institute of Museum and Library Services, a Library Services and Technology Act grant, and the National Library of Medicine.

So, remember all that your local librarian can do for

you. And ask yourself:

"Does research influence policy? Certainly it does. Especially bad research." Anonymous. Quoted by Mark Kleiman, in "Sad but True." *The Reality-Based Community*, Nov. 23, 2005.

Don't let your research be bad. Contact Lisa Mecklenberg Jackson, legislative librarian, at ljackson@mt.gov, 444-2957 for help with your research needs.

ECONOMIC AFFAIRS COMMITTEE

Meeting trifecta...The Economic Affairs Committee and its subcommittee studying professional and occupational licensing boards under SJR 35 will meet in May as will a work group developing recommendations for legislation to prevent identity theft. The work group will meet May 4 in Room 137 of the Capitol at 10 a.m. The SJR 35 subcommittee will meet May 11 at 1 p.m. in Room 102, and the full Economic Affairs Committee will meet May 12 at 8:30 a.m. in the same room.

The work group will discuss proposals that would allow consumers to freeze access to their credit reports. The work will also discuss proposals on the use of social security numbers and for mitigating the impact of identity theft on victims.

The SJR 35 subcommittee will continue its review of how the Department of Labor and Industry and boards handle budgeting. The subcommittee will also examine whether boards meet their stated purpose of protecting public health, welfare, and safety. Insights gained from these discussions may help the subcommittee in deciding whether to develop a process for creating new boards or programs.

In addition to reviewing work on identity theft and licensing boards, the Economic Affairs Committee will hear the following reports:

- concerns about, and options for dealing with, uninsured motorists;
- activities relating to Montana's investment environment; and
- updates on the Montana Heritage Preservation and Development Commission.

Safe bet... More information about the work group, the subcommittee, or the full committee is on the Economic Affairs Committee website. If you have questions about the committee, contact Pat Murdo, committee staff, at pmurdo@mt.gov or (406) 444-3594.

LAW AND JUSTICE COMMITTEE

The Law and Justice Interim Committee is working on two committee bills. The first bill draft (LC 71) would be a general revision of prosecution services related to the SJR 40 study of the delivery of prosecution services. The other

bill draft (LC 72) would provide for the access to civil justice related to the SJR 6 study of legal services for low- and moderate-income Montanans. The proposals are in the initial drafting stage. Thus, many details have yet to be worked out.

Proposal would increase county attorney salaries and provide more support for state crime lab...The bill draft (LC 71) to revise prosecution services would increase county attorney salaries, provide increased support for the state crime lab, and increase the number of attorneys for the Prosecution Services Bureau.

County attorney salaries and payment of salaries would be revised as follows.

- *Statutory minimum.* The LJIC is proposing to change the statutory minimum salary for full-time county attorneys (now \$50,000) to 75% of the salary set for a district court judge. A district court judge's salary is set under 3-5-211, MCA, which provides that the salary be the average salary of a salary survey conducted of surrounding states. The survey is conducted every two years by the Department of Administration. In the current biennium, 75% of a district judge's salary is \$70,570. In all but Blaine, Deer Lodge, Jefferson, and Teton counties, the county attorney salary is already above, at, or just slightly below this amount.
- *Add state health insurance factor.* Current law requires the state to pay 50% of each county attorney's salary, based on information provided by the county to the Department of Justice and based on legislative appropriations. The LJIC proposal would provide that the state add a "health insurance factor" of \$3,600 annually, which is 50% of the state employer's health insurance premium for an unmarried state employee.
- *State share paid by increasing county entitlement share.* The Department of Justice pays the state's share of each county attorney's salary, which is set by each county's compensation board. The LJIC proposal would change how the state's obligation is paid by making a one-time increase to each county's base entitlement share appropriation (calculated under 15-1-121, MCA). The amount of the increase would be equal to the amount that the state is currently paying, plus the health insurance factor. The state obligation for county attorney salaries would no longer be included in the Department of Justices' budget or subject to biennial appropriations. Each county's base entitlement share appropriation is increased annually by a statutorily calculated growth factor. Thus, the county would pay 100% of the county attorney salary, but would have the increased base entitlement share, plus the annual growth factor to apply toward the county attorney's salary.

- *County compensation boards continue to set salary.* The LJIC bill would not change the role of county compensation boards, which set the county attorney salaries. Therefore, a county could pay a county attorney more than the minimum statutory salary and also increase a county attorney's salary by more than growth factor applied to the entitlement share.

The LJIC would provide for improvements to the state crime lab as follows:

- one additional FTE (\$65,230 in annual salary) for a toxicology scientist. This position was recommended in an audit by the American Board of Forensic Toxicology.
- one additional FTE (\$65,230 in annual salary) for a scientist in the Impression/Latent Print Section, which processes information about evidence used to prosecute cases. This section has a backlog of cases in excess of one year and could lose its accreditation if the FTE is not added.
- salary increases ranging from about 9% to 15% (and costing an estimated \$150,000 annually) for all lab staff. The proposal would bring salaries to at least the market rate for new hires, to the market mid-point for experienced staff, and to the market maximum for the lab's most experienced staff.

The LJIC proposal would add four attorney positions to the Prosecution Services Bureau. Two of the new positions would be general prosecutors. The other two would specialize in child abuse and neglect cases as part of the Child Protection Unit.

Committee proposes to expand access to justice...The committee proposal (LC 72) to create the Access Justice Act is being drafted by the LJIC Pro Se subcommittee, which was appointed in January to begin work on access to justice problems encountered by self-represented litigants. The bill would:

- establish a self-help law program directed by the Montana Supreme Court (or a designated commission) that would provide for the development and updating of:
 - (1) standard forms to be used in any of Montana's courts;
 - (2) information for clerks of court and volunteers about how to provide assistance to self-represented litigants without providing direct representation or practicing law without a license;
 - (3) curriculum and training materials for classes and clinics attended by self-represented litigants; and

- (4) multimedia access (including website access) to forms, information, and resources available to self-represented litigants;
- require statewide coordination with other public and private entities (such as the non-profit Montana Legal Services Association and the state and local bar associations) working on access to justice;
- require data collection and a report to the Legislature by the Montana Supreme Court; and
- provide funding from the state general fund for 3 to 4 FTE to implement the program.

Information, discussion, and action items about *pro bono* (no fee or reduced fee) attorney services and legislative provisions that would best support *pro bono* programs is "coming soon".

Committee travels to Billings...While meeting in Billings on March 22-23, LJIC members toured the MLSA regional office, the Montana State Women's Prison, and the 13th Judicial District's Family Drug Court.

Montana Legal Services Association visit...Members met with MLSA Executive Director Klaus Sitte and his staff in the Billings regional MLSA office. Members spoke with attorneys providing legal assistance to clients who are at or below 125% of federal poverty guidelines in the areas of family law, migrant farm worker employment and benefits, and consumer law. The director of the Yellowstone Area Bar Association's *pro bono* network discussed the importance of *pro bono* attorneys in assisting low-income Montanans with legal problems to access the courts. The visit focused on the MLSA's Self-Help Family Law Project, which is currently operating with MLSA grant money to assist low-income Montanans who cannot afford an attorney and who must either represent themselves in court or secure *pro bono* legal assistance.

Committee visits women's prison...During its visit to the women's prison, the LJIC learned that the prison currently houses about 265 adult women, or about 70 beds over capacity. Three women, rather than two, are bunked together in a typical cell. In some areas, 6 women are bunked in one room. The prison has 90 staff members (including contract personnel) and provides necessary medical and dental treatment.

Programs include a "dog unit" where inmates learn how to train dogs for people with disabilities, and self-help programs involving mental health counseling, family support, and physical wellness. There is also a maximum security unit where women who have violated certain standards of conduct are isolated in individual cells with only one hour a day outside their cells.

Visit to Family Drug Court...Several LJIC members

visited the 13th Judicial District's Family Drug Court in Yellowstone County, which is headed by District Court Judge Susan Watters. The court handles cases where parents agree to follow a "road map" to recovery from drug abuse. The parents must follow this road map in order to retain their parental rights. The visit included a discussion with Judge Watters and the members of her treatment team. The treatment team typically includes the probation officer, child protective services social workers, a court-appointed special advocate for the children, a public defender, mental health evaluator, and others appointed by the court. The LJIC members also observed the pre-court session team meeting on each of the court's cases and then the court session for each parent (a total of 13 parents and 28 children) under the court's jurisdiction.

Next meeting scheduled for May...The next LJIC meeting is scheduled for May 11-12 in Room 137 of the Capitol. Although the agenda is still being finalized, implementation of SB 146 (the statewide public defender system) will likely be the focus of the May 11 meeting, while on the next day, committee members will review the bill draft to revise prosecution services (LC 71).

For more information about the committee, contact Sheri Heffelfinger, committee staff, at (406) 444-3596, or visit the LJIC's website accessible through <http://leg.state.mt.us>.

EDUCATION AND LOCAL GOVERNMENT COMMITTEE

The Education and Local Government Interim Committee's two subcommittees--Postsecondary Education Policy and Budget subcommittee and Local Government subcommittee--are scheduled to meet next on June 12. The full committee will meet on June 13. The June issue of *The Interim* will include more details; agendas will be posted on the committee's and subcommittees' webpages when they are prepared.

For information about ELG or the Local Government subcommittee, contact Leanne Kurtz, ELG staff, at (406) 444-3593 or lekurtz@mt.gov. For information about PEPB, contact Alan Peura, associate fiscal analyst, at (406) 444-5387 or apeura@mt.gov.

UPDATE ON MONTANA'S SEXUAL OFFENDER LAWS

LSD fields questions on Florida's new sex offender law...In 2005, the Florida Legislature passed the Jessica Lunsford Act. The act was passed in response to the rape and murder of a child by a former sex offender, a crime that was extensively covered by the national news media. The act:

- defines a sexual offender;
- imposes penalties for sex crimes;
- requires the registration of sex offenders;
- provides for electronic monitoring of sex offenders after release from prison; and
- prohibits sex offenders from living or working in certain areas frequented by children.

The Legislative Services Division has received many inquiries about the Florida law and requests for bill drafts to implement that law in Montana. With one exception,

Montana law already contains most of the elements of the Florida act.

The exception is that the Florida act makes it a crime to assist a person with whom one lives to evade the sexual offender registration law. However, a person who does so in Montana can be charged under 45-2-302, MCA, which makes it a crime to aid or abet or attempt to aid another person in the planning or commission of a crime. This covers every crime, and there is no need to adopt a separate, similar statute for a particular crime, such as assisting a person in evading the sexual offender law.

Summary of Montana's sexual offender statutes... As noted above, Montana's law contains most of elements in the Jessica Lunsford act. The provisions of Montana's sexual offender laws are summarized below.

Montana's "Sexual or Violent Offender Registration Act" is contained in Title 46, chapter 23, part 5. Section 46-23-502, MCA, provides definitions of "predatory sexual offense", "sexual offense", "sexual or violent offender", and "sexually violent predator". The act also prescribes the registration of a sexual or violent offender. An offender must register with law enforcement officials in the area where the offender resides and the offender must give notice of an address change. The registration of an offender is for life, but after 10 years the offender may petition to be relieved of the duty to register. The act also provides for: penalty for failing to register; dissemination of information maintained under the act; sexual offender evaluations and designations by risk level; and a community education program on the release of sexual offenders into a community.

Montana law imposes restrictions on sexual offenders related to living or working near a school, day care center, park, or other areas. Section 46-18-255, MCA, provides:

46-18-255. Sentence upon conviction -- restriction on employment and residency. (1) A judge sentencing a person upon conviction of a sexual or violent offense shall, as a condition to probation, parole, or deferment or suspension of sentence, impose upon the defendant reasonable employment or occupational prohibitions and restrictions designed to protect the class or classes of persons containing the likely victims of further offenses by the defendant.

(2) In addition to any restriction on employment imposed under subsection (1), a judge sentencing a person convicted of a sexual offense involving a minor and designated as a level 3 offender under 46-23-509 shall, as

a condition to probation, parole, or deferment or suspension of sentence, impose upon the defendant restrictions on the defendant's residency in the proximity of a private or public elementary or high school, preschool as defined in 20-5-402, licensed day-care center, church, or park maintained by a city, town, or county.

Sexual offenders are subject to electronic monitoring following release from prison as provided in the following sections:

46-18-206. Sexual offenders -- electronic monitoring as additional condition of sentence. Upon sentencing a person for conviction of a sexual offense under Title 45, chapter 5, part 5, who is designated as a level 3 offender under 46-23-509, the sentencing judge shall, as a condition of probation, parole, conditional release, or deferment or suspension of sentence, require the offender to participate in the program for the continuous satellite-based monitoring of sexual offenders established under 46-23-1010.

46-23-1010. Sexual offenders -- electronic monitoring program -- contract -- rules. (1) The department shall establish a program for the continuous, satellite-based monitoring of sexual offenders designated as level 3 offenders under 46-23-509. The program may include:

(a) time-correlated and continuous tracking of the geographic location of a monitored person using a global positioning system based on satellite and other location-tracking technology;

(b) reporting of a monitored person's violation of prescriptive and proscriptive schedule or location requirements. Frequency of reporting may range from once-a-day, passive reporting to near-real-time, active reporting.

(c) an automated system that allows local and state law enforcement officials to compare the geographic positions of a monitored person with reported criminal incidents to determine whether the monitored person was at or near the scene of a reported criminal incident and to include or exclude a monitored person from the investigation of a criminal incident.

(2) The department shall adopt rules for the establishment and operation of the program required under subsection (1), including rules establishing supervisory fees. The department may consult with state and local law enforcement officials in developing the rules.

(3) The department shall contract with a single vendor for the procurement of the equipment and services needed to monitor persons under the program and correlate the movements of monitored persons to reported criminal incidents. The contract may provide for equipment and services necessary to implement or facilitate any of the provisions of this section and for the collection and disposition of the fees provided for in 46-23-1031 and may allow for the reasonable cost of collection of the proceeds."

The types of sexual crimes, including crimes against children, and the penalties and sentencing for committing those crimes are contained in various sections of Montana law: 45-5-212, MCA, 45-5-223, MCA, Title 45, chapter 5, parts 5 and 6, MCA, 46-18-202, MCA, 46-18-205, MCA, 46-

18-206, MCA, and 46-23-1010, MCA, 46-18-219, and 46-18-303(1)(a)(vi) and (4), MCA .

For more information about Montana's sexual offender laws, contact John MacMaster, legislative attorney, at (406) 444-3064 or jmacmaster@mt.gov.

THE BACK PAGE

MONTANA'S ETHICS LAWS: RULES OF ENGAGEMENT IN A POLITICAL WAR

by Sheri S. Heffelfinger
Legislative Research Analyst

INTRODUCTION

As an Army ROTC cadet, I was required to take classes on morality and war. To me, the notion of ethics in war seemed a stark contradiction. I was being trained for combat operations at the same time I was expected to honor and enforce strict rules of engagement, or suffer the consequences. It was difficult for me to reconcile these contradictions, but I finally came to the profound realization that a clear code of ethics is not only a noble aspiration, but in war, it is essential. Defining and applying that code, however, is extremely difficult.

Defining and applying a code of ethics in political war is just as difficult. How do you legislate honor? Isn't politics in a democracy all about influencing elected officials, gaining political connections, and listening to special interests? The right of people to seek redress for their grievances may be a constitutional "no brainer", but the fog of political war can be very difficult to see through. Lobbyists are paid to influence elected officials; and elected officials are supposed to listen and represent. Where is the line to be drawn between a job well done and corruption?

The Abramoff lobbying scandal has piqued an interest in lobbying and ethics laws. However, ethics has been a perennial political issue, a favorite battle cry in political campaigns irrespective of party affiliation. I confess that as a nonpartisan legislative staffer, I often get tired of the fight. Instead of dissecting various ethics laws, I'm tempted to throw up my hands and say: "Either people are ethical, or they are not; and if a public official can't act honorably, then the official should be voted out of office." (I've always been somewhat naive and idealistic.) I am frustrated by the confusing tangle of Montana's ethics laws and by various attempts to clean them up. Untangling one thread of the law causes the whole web to fall apart. To demonstrate one aspect of the tangled web of ethics laws, this back page article examines one thread of the law: Montana's "revolving door" provisions.

REVOLVING DOOR LAWS

Revolving door laws are aimed at preventing a public official or public employee from performing official acts in exchange for private occupational gain, that is, using public service as a revolving door for private purposes. Revolving door laws often include a "cooling off" period, or a period of time after one's term or employment during which the public official or employee is prohibited from taking a job directly related to the official's or employee's area of public service.

Article XIII, section 4 of Montana's Constitution sets the stage for revolving door laws:

Section 4. Code of ethics. The legislature shall provide a code of ethics prohibiting conflict between public duty and private interest for members of the legislature and all state and local officers and employees.

The Montana code of ethics has evolved through the enactment of various legislative proposals and voter-approved initiatives. Ethics laws are codified primarily in Title 2, chapter 2, part 1, and Title 5, chapter 7, of the Montana Code Annotated. Title 2 establishes standards of conduct for public officials and public employees, and Title 5 governs the standards of ethics for lobbyists and lobbying. Each of these two bodies of law has its own statutory section defining terms; and within each definition section, distinctions are made between certain types of officials and employees and certain levels of government. For example, in Title 2, chapter 2, a "state officer" is different than a "public official" and officials and employees of a "state agency" are differentiated from officials and employees of a "local government", while a "special district" has its own definition.

The following is a partial list of definitions that applies to Title 2, chapter 2, part 1:

2-2-102. Definitions. As used in this part, the following definitions apply: ...

... (4) "**Local government**" means a county, a consolidated government, an incorporated city or town, a school district, or a special district.

(5) "Official act" or "official action" means a vote, decision, recommendation, approval, disapproval, or other action, including inaction, that involves the use of discretionary authority.

(6) "**Private interest**" means an interest held by an individual that is:

- (a) an ownership interest in a business;
- (b) a creditor interest in an insolvent business;
- (c) an employment or prospective employment for which negotiations have begun;
- (d) an ownership interest in real property;
- (e) a loan or other debtor interest; or
- (f) a directorship or officership in a business.

(7) "**Public employee**" means:

- (a) any temporary or permanent employee of the **state**;
- (b) any temporary or permanent employee of a **local government**;

(c) a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority; and

(d) a person under contract to the state.

(8) "**Public officer**" includes any **state officer** and any **elected officer of a local government**.

(9) "Special district" means a unit of local government, authorized by law to perform a single function or a limited number of functions. The term includes but is not limited to conservation districts, water districts, weed management districts, irrigation districts, fire districts, community college districts, hospital districts, sewer districts, and transportation districts. The term also includes any district or other entity formed by interlocal agreement.

(10) (a) "**State agency**" includes:

- (i) the state;

- (ii) the legislature and its committees;
 - (iii) all executive departments, boards, commissions, committees, bureaus, and offices;
 - (iv) the university system; and
 - (v) all independent commissions and other establishments of the state government.
- (b) The term does not include the judicial branch.
- (11) "**State officer**" includes all elected officers and directors of the **executive branch** of state government as defined in 2-15-102. (**emphasis added**)

Now, read the following revolving door provision in context of the above definitions:

2-2-105. Ethical requirements for public officers and public employees. . . .

... (3) A **public officer** or **public employee** may not, within 12 months following the voluntary termination of office or employment, obtain employment in which the officer or employee will take direct advantage, unavailable to others, of matters with which the officer or employee was directly involved during a term of office or during employment. These matters are rules, other than rules of general application, that the officer or employee actively helped to formulate and applications, claims, or contested cases in the consideration of which the officer or employee was an active participant. ... (**emphasis added**)

This is the point where eyes glaze over, if they haven't already. But, read carefully. This law applies only to a narrow group of people and then only in very narrow circumstances. For example, 2-2-105, MCA, applies only to a public officer or public employee (which does not include a legislator or legislative staff) only if the person quits voluntarily (which leaves out term limits or getting fired), only if the person takes "direct advantage, unavailable to others" (whatever that means), and only if the person was directly involved in "matters" limited to "rulemaking, applications, claims, or contested cases" (none of which involve policymaking functions). Furthermore, nowhere in this section of law is there any mention of "official acts" or "private interest", which are defined terms that one would expect to see in an ethics law.

ETHICS LAW AND LEGISLATORS

But, let's move on. Section 2-2-112, MCA, does apply to legislators:

2-2-112. Ethical requirements for legislators. (1) The requirements in this section are intended as rules for **legislator** conduct, and violations constitute a breach of the public trust of legislative office.

(2) A legislator has a responsibility to the legislator's constituents to participate in all matters as required in the rules of the legislature. A **legislator concerned with the possibility of a conflict** may briefly present the facts to the committee of that house that is assigned the determination of ethical issues. The committee shall advise the legislator as to whether the legislator should disclose the interest prior to voting on the issue pursuant to the provisions of subsection (5). The legislator may, subject to legislative rule, vote on an issue on which the legislator has a conflict, after disclosing the interest.

(3) When a legislator is required to take **official action**

on a legislative matter as to which the legislator has a conflict created by a **personal or private interest** that would directly give rise to **an appearance** of impropriety as to the **legislator's influence, benefit, or detriment** in regard to the legislative matter, the legislator shall disclose the interest creating the conflict prior to participating in **the official action**, as provided in subsections (2) and (5) and the rules of the legislature. In making a decision, the legislator shall consider:

(a) whether the conflict impedes the legislator's independence of judgment;

(b) the effect of the legislator's participation on public confidence in the integrity of the legislature;

(c) whether the legislator's participation is likely to have any significant effect on the disposition of the matter; and

(d) whether a pecuniary interest is involved or whether a potential occupational, personal, or family benefit could arise from the legislator's participation.

(4) A conflict situation does not arise from legislation or legislative duties affecting the membership of a profession, occupation, or class.¹

(5) A legislator shall disclose an interest creating a conflict, as provided in the rules of the legislature. A legislator who is a member of a profession, occupation, or class affected by legislation is not required to disclose an interest unless the class contained in the legislation is so narrow that the vote will have a direct and distinctive personal impact on the legislator. A legislator may seek a determination from the appropriate committee provided for in 2-2-135. (**emphasis added**)

Let me try to untangle this web. The above language does include the terms "official action" and "private interest". But, the section does not include a specific "cooling off period" as is provided in 2-2-105, MCA, for public officers and public employees. Nevertheless, subsection (3) does address the notion that it is unethical for a legislator to take an official action without first disclosing a conflict that arises because of a "private interest"; and "private interest" as defined in 2-2-102, MCA, includes an interest in "employment or prospective employment for which negotiations have begun". Thus, the revolving door does seem closed. On the other hand, an argument could be made that the above section is no more than "fluff"--an honor system that relies solely on the integrity of the legislator. This is where frustration kicks in and I throw up my hands and say: "Can't everyone just be ethical?"

The section is also riddled with technical flaws. To list a few: "conflict of interest" is never explicitly stated; the first sentence of subsection (3) is a horrible run-on that is difficult to follow; and certain language taken literally means that the provisions actually apply only to a "concerned" legislator, only to matters in which an "official action" would give rise to the "appearance" of impropriety, and only if a benefit "could" arise (meaning that it might not arise, and to whom the benefit would accrue is not actually stated). Finally, the construction of subsections (3)(a) through (3)(d) state that

¹This means, for example, that a legislator need not disclose that the legislator is a member of the Public Employees' or Teachers Retirement System if voting on a retirement bill.

only the legislator, not necessarily the ethics committee, need consider the factors listed. Now you try to draft a clean amendment to this language and see how far you get before throwing up your hands in frustration.

ETHICS LAW AND LOBBYISTS

As previously noted, the code of ethics with respect to lobbying is provided for in Title 5, chapter 7, MCA. Some of the defined terms used in the chapter are as follows:

5-7-102. Definitions. The following definitions apply in this chapter:

(1) "**Appointed state official**" means an individual who is appointed:

(a) to public office in state government by the governor or the chief justice of the Montana supreme court and who is **subject to confirmation**² by the Montana senate;

(b) by the board of regents of higher education to serve either as the commissioner of higher education or as the chief executive officer of a campus of the Montana university system; or

(c) by the board of trustees of a community college to serve as president. ...

(5) "**Elected federal official**" means a person elected to a federal office, including but not limited to a member of the United States senate or house of representatives. The term includes an individual appointed to fill the unexpired term of an elected federal official and an individual who has been elected to a federal office but who has not yet been sworn in.

(6) "**Elected local official**" means an elected officer of a county, a consolidated government, an incorporated city or town, a school district, or a special district. The term includes an individual appointed to fill the unexpired term of an elected local official and an individual who has been elected to a local office but who has not yet been sworn in.

(7) "**Elected state official**" means an individual holding a state office filled by a statewide vote of all the electors of Montana or a state district office, including but not limited to public service commissioners and district court judges but not including legislators for the purposes of this chapter. The term includes an individual appointed to fill the unexpired term of an elected state official and an individual who has been elected to a statewide office but who has not yet been sworn in.

(8) "**Elected tribal official**" means an elected member of a tribal council or other elected office filled by a vote of tribal members. The term includes an individual appointed to fill the unexpired term of an elected tribal official and an individual who has been elected to a tribal office but who has not yet been sworn in. ...

(10) "**Legislator**" means an individual holding public office as a representative or a senator in the Montana legislature. The term includes an individual who has been elected to the legislature but who has not yet been sworn in.

(11) (a) "**Lobbying**" means:

(i) the practice of promoting or opposing the introduction or enactment of legislation before the legislature or the members of the legislature; and

(ii) the practice of promoting or opposing official action by any public official.

(b) The term does not include actions described in subsections (11)(a)(i) and (11)(a)(ii) when performed by a legislator, a public official, an elected local official, an elected federal official, or an elected tribal official while acting in an official governmental capacity.

(12) (a) "**Lobbyist**" means a person who engages in the practice of lobbying.

(b) Lobbyist does not include:

(i) an individual acting solely on the individual's own behalf;

(ii) an individual working for the same principal as a licensed lobbyist if the individual does not have personal contact involving lobbying with a public official on behalf of the lobbyist's principal; or

(iii) an individual who receives payments from one or more persons that total less than the amount specified under 5-7-112 in a calendar year.

(c) Nothing in this chapter deprives an individual who is not a lobbyist of the constitutional right to communicate with public officials. ...

(15) "**Principal**" means a person who employs a lobbyist or a person required to report pursuant to 5-7-208.

(16) "**Public official**" means an elected state official or an appointed state official acting in an official capacity for state government. The term does not include those acting in a judicial or quasi-judicial capacity or performing ministerial acts.

(17) "**Unprofessional conduct**" means:

(a) violating any of the provisions of this chapter;

(b) instigating action by a public official for the purpose of obtaining employment;

(c) attempting to influence the action of a **public official** on a measure pending or to be proposed by:

(i) promising financial support; or

(ii) making public any unsubstantiated charges of improper conduct on the part of a lobbyist, a principal, or a **legislator**; or

(d) attempting to knowingly deceive a **public official** with regard to the pertinent facts of an official matter or attempting to knowingly misrepresent pertinent facts of an official matter to a **public official**. (**emphasis added**)

Are you still with me? Good. Now, let's look at the one-sentence section that is the heart of the entire chapter:

5-7-302. Unprofessional conduct. No lobbyist or principal shall engage in or directly or indirectly authorize any unprofessional conduct.

The definition section and this section taken together prohibit lobbyists and those that employ them from attempting to influence an "official action" of a "public official" by using bribery, blackmail, defamation, or lies. Sounds like good code of ethics, right? But, read carefully. The definition of "unprofessional conduct" applies only to a "public official". According to the definitions in 5-7-102, MCA, a "public official" is a "state official", which does not include a legislator. Subsection (17)(c)(ii) does use the word "legislator", but the language of subsection (c), which is the lead-in to subsection (ii), actually provides that subsections (i) and (ii) apply only to a "public official", again, not a legislator. Thus, lobbyists and principals are not prohibited from engaging in "unprofessional conduct" with respect to legislators.

²An interesting aside: An appointed state official, as defined in this section, does not include a member of the Public Employees' Retirement Board, the Teachers' Retirement Board, or the Board of Investments, which handle billions of public funds, because these members, while appointed by the governor, are not subject to senate confirmation.

KING FOR A DAY

These are just a few examples of some significant loopholes in Montana's tangled web of ethics laws. Often, these loopholes are the unintended consequences of a bill or an initiative that, because it was aimed at chopping down one particular tree for one particular reason, no one looked at the forest. Now, everyone is lost in woods.

What would I recommend? Well, if I were "king for a day", I would appoint a royal council of the best statesmen in the kingdom to completely overhaul the current laws, if not just

scrap them and start over. I would charge the council to carefully review the laws, compare them to model laws, and undertake a deliberative decision making process with advice from experts and ensuring broad-based public participation. Sounds a lot like an interim study to me. (After all, when bullets are flying during a session or campaign season, that is hardly the time to sit down and rationally discuss the rules of engagement.) But, who would staff such an interim study? Hopefully, not me. In this battle, I'm content to duck.



INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED, ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
May 2006						
	1	2 Revenue and Transportation Committee	3	4 Identity theft work group, Room 137, 10 a.m.	5	6
7	8 State-Tribal Relations Committee visit to Blackfeet Indian Reservation	9 State-Tribal Relations Committee visit to Blackfeet Indian Reservation	10 State-Tribal Relations Committee tour of the Crossroads Correctional Center in Shelby	11 Economic Affairs SJR 35 licensing boards study sub- committee, Room 102, 1 p.m. Law and Justice Committee, Room 137	12 Economic Affairs Committee, Room 102, 8:30 a.m. State Administration and Veterans' Affairs Committee, Room 172 Law and Justice Committee, Rm. 137	13
14	15	16	17	18 Environmental Quality Council subcommittees: Agency Oversight subcommittee, Room 172 HB 790 subcommit- tee, Room 102 Study subcommit- tee, Room 137	19 Environmental Quality Council, Room 102	20
21	22	23	24	25	26 Legislative Finance Committee work group on state lands management, Room 102, 9 a.m.	27
28	29	30	31			

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
June 2006						
				1	2	3
4	5	6	7	8 Legislative Finance Committee, Room 102, 1 p.m. Children, Families, Health, and Human Services Committee, Room 137	9 Legislative Finance Committee, Room 102, 8 a.m. Children, Families, Health, and Human Services Committee, Room 137	10
11	12 Postsecondary Education Policy and Budget subcommittee, Room 137, 8:30 a.m. Local Government subcommittee	13 Education and Local Government Committee	14	15	16	17
18	19	20 Legislative Audit Committee, Room 172	21	22 State Administration and Veterans' Affairs Committee	23 State Administration and Veterans' Affairs Committee	24
25	26	27	28	29 Revenue and Transportation Committee, Room 137	30 Revenue and Transportation Committee, Room 137	

LEGISLATIVE SERVICES DIVISION
PO BOX 201706
HELENA MT 59620-1706